

**DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS**

NOTICE OF PROPOSED RULEMAKING

The Chief Administrative Law Judge of the Office of Administrative Hearings, pursuant to the authority set forth in Section 8 of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76, D.C. Official Code § 2-1831.05(b)(7)), gives notice of his intent to adopt the following amendments to Chapter 28 of Title 1 of the District of Columbia Municipal Regulations in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register* in accordance with § 6(a) of the District of Columbia Administrative Procedure Act, D.C. Official Code § 2-505(a). These proposed rules would amend certain provisions of the Office of Administrative Hearings Rules of Practice and Procedure.

1 DCMR Chapter 28 is amended by adding the following new Sections:

- 2802.2 Any case commenced before this administrative court that arose exclusively from material facts underlying a contested case pending before an agency or tribunal prior to October 1, 2004, shall be commenced before this administrative court not later than 120 days after this administrative court acquires jurisdiction to hear such case.
- 2804.4 In any case in which the Government represents that a Notice of Violation was served by certified mail, it shall file, and serve upon the Respondent, a copy of the certified mail return receipt (U.S.P.S. Form 3811, or its successor) signed by the recipient, or an affidavit or declaration sufficient to demonstrate that the Notice of Violation was received by the Respondent, or if not received, the reason, to the best of the Government's knowledge, why it was not received. Any submission made under this Section shall also include a photocopy of any envelope returned to the Government by the United States Postal Service as undelivered or undeliverable, and any paper or document appended to such envelope by the United States Postal Service.
- 2804.5 Unless the Respondent has answered the Notice of Violation or otherwise appeared, any case in which the Government has failed to comply with Section 2804.4 within 20 calendar days of the filing of the Notice of Violation shall be dismissed without prejudice for lack of sufficient proof of proper service. If a case is pending at the time Section 2804.4 is adopted, such compliance shall occur within 20 calendar days of the filing of the Notice of Violation, or 7 calendar days of the adoption of Section 2804.4, whichever is later.

- 2838.9 Any attorney appearing before this administrative court in a representative capacity under this Rule shall provide, immediately under his or her signature, his or her valid District of Columbia bar number. Persons appearing (or applying to appear) in a representative capacity under Sections 2838.2 or 2838.4 shall provide, immediately under his or her signature, the Rule under which he or she is appearing (or applying to appear). Persons appearing under Section 2838.2 shall also provide the bar number, if any, of at least one jurisdiction in which that person is admitted to practice law. This Section applies to every paper filed with this administrative court by an attorney or law student practicing under Rule 2838.
- 2839.8 An Administrative Law Judge may permit a party to be represented by a non-attorney Family Member, only where that Family Member does not request or accept compensation, in any form, for providing representation to a party in the limited circumstances in which such representation is permitted by this Rule.
- 2839.9 Unless otherwise required by law, no person who is not a member in good standing of the District of Columbia Bar or an attorney admitted to limited practice pursuant to Section 2838.2, may request or accept compensation, in any form, for providing representation to a party. A presiding Administrative Law Judge may require such disclosures as may be reasonably necessary to ensure compliance with this Section, and in the furtherance of this administrative court's responsibility to safeguard the public from the unauthorized practice of law in violation of D.C. Court of Appeals Rule 49.
- 2839.10 Under the limited circumstances permitted under this Rule, any person representing a litigant shall make clear, on each document it filed with this administrative court on the litigant's behalf, what its relationship is to the litigant, and that such representative is not a member of the District of Columbia bar, or a person otherwise practicing under Rule 2838. Each such person shall also indicate to the satisfaction of the presiding Administrative Law Judge, that he or she has obtained the informed consent of the litigant to act as the litigant's representative for all purposes before this administrative court.
- 2840.4 Papers filed in an appellate proceeding or other proceeding before this administrative court may be subject to a filing fee in accordance with a fee schedule published in the D.C. Register.

Section 2840.5 of 1 DCMR Chapter 28 is repealed.

1 DCMR Chapter 28 to read as follows:

2898 PUBLICATION OF SCHEDULE OF FILING AND RELATED FEES

- 2898.1 Notwithstanding any other provision of this Rule, no fee under this Rule shall apply in any case arising from a challenge by an individual to a decision of the Department of Human Services or the District of Columbia Energy Office, a case arising from a challenge by an individual to a decision by the Department of

Health denying that individual access to a governmental benefit, or matters arising under D.C. Law 6-108 (D.C. Official Code §§ 44-1001.01, *et seq.*).

- 2898.2 Pursuant to Section 8(b) of the Act, no fee under this Rule shall be applicable to the District of Columbia Government or the United States.
- 2898.3 Except as otherwise provided by law, the fee schedule in this Rule shall apply in any case commenced in this administrative court, on or after October 1, 2004.
- 2898.4 Case commencement submissions in the following types of cases shall have a filing fee of \$40.00:
- (a) Cases arising from an appeal of a decision of the Office of Tax and Revenue;
 - (b) Cases arising under the former jurisdiction of the Board of Appeals and Review;
 - (c) Cases arising from the appeal of a denial of any professional or occupational license where the applicant has been determined to be unqualified or otherwise ineligible for licensure; and
 - (d) Appeals governed procedurally by 1 DCMR Chapter 29.
- 2898.5 Cases commenced by a Notice of Violation in which the Respondent has admitted his or her liability for the charged offense upon entry of an initial plea, shall be subject to an administrative fee of \$5.00 upon disposition.
- 2898.6 Cases commenced by a Notice of Infraction in which the Respondent has admitted his or her liability for the charged offense upon entry of an initial plea, shall be subject to an administrative fee of \$10.00 upon disposition.
- 2898.7 Fees required under this Rule shall be tendered at the time of filing except for fees applicable Sections 2898.5 and 2898.6, which shall be tendered at the time of payment of the applicable monetary sanction. Failure to comply with this Section shall render any commencement submission to which it is applicable subject to summary rejection by the clerk, or to being stricken by the administrative court.

1 DCMR Chapter 28 is amended to add the following definition:

“Family Member” means a person’s spouse, parent, grandparent, son, daughter, sibling, grandson, granddaughter, or any domestic partner recognized by District of Columbia law, or a substantially similar law of another jurisdiction.

Comments on these proposed rules should be submitted, in writing, to Mr. Tracy J. BeMent, Chief Administrative Officer, Office of Administrative Hearings, 825 North Capitol Street, N.E., Suite 4150, Washington, DC 20002, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Copies of these proposed rules are available without charge at the above address.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, DC 20005

NOTICE OF PROPOSED RULEMAKING

TT04-3, IN THE MATTER OF THE APPLICATION OF VERIZON
WASHINGTON, DC, INC. FOR AUTHORITY TO AMEND THE LOCAL
EXCHANGE SERVICES TARIFF, P.S.C.-D.C. No. 202

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Code,¹ of its intent to act upon the Application of Verizon Washington, DC Inc. ("Verizon DC")² in not less than 30 days from the date of publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

2. On July 2, 2004, Verizon DC filed an Application³ requesting authority to modify the following tariff page:

LOCAL EXCHANGE SERVICES TARIFF, P.S.C.-D.C. No. 202
Section 2, 5th Revised Page 3

3. Verizon DC's Application proposes to increase the rates for Residential and Business Message Units.⁴ These services are classified under the Price Cap Plan as Basic, so a rate increase of more than 10% annually is not permitted. Verizon's tariff filing proposes to increase the Residential Message Unit rate from \$0.055 to \$0.06, which is an increase of 9.1%. In addition, the Business Message Unit would increase from \$0.085 to \$0.09, an increase of 5.9%. Verizon DC asserts that this Application was submitted in compliance with Price Cap Plan 2002.⁵

4. This Application may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Second Floor, West Tower, Washington, D.C. 20005,

¹ D. C. Code, 2001 Ed. § 2-505.

² Formal Case No. TT04-3, *In the Matter of the Application of Verizon Washington, DC, Inc. For Authority to Amend the General Services Tariff, P.S.C.-D.C.-No. 203*, Letter to Sanford M. Speight, Acting Commission Secretary, from J. Henry Ambrose, Vice President for Regulatory Matters of Verizon DC, re: Formal Case No. TT04-3, filed July 2, 2004 (hereinafter referred to as "Application").

³ Application at 1.

⁴ *Id.*

⁵ Formal Case No. 1005, *In the Matter of Verizon Washington, D.C. Inc.'s Price Cap Plan 2002 for the Provision of Local Telecommunications Services in the District of Columbia*, Order No. 12368, rel. April 1, 2003.

between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday. Copies of the tariff pages are available upon request, at a per-page reproduction cost.

5. Comments on the proposed tariff must be made in writing to Sanford M. Speight, Acting Commission Secretary, at the above address. All comments must be received within 30 days of the date of publication of this NOPR in the *D.C. Register*. Persons wishing to file reply comments may do so no later than 45 days of the date of publication of this NOPR in the *D.C. Register*. Once the comment and reply comment period has expired, the Commission will take final rulemaking action on Verizon DC's Application.